United Nations S/AC.44/2004/(02)/91

Security Council

Distr.: General
21 December 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 14 December 2004 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to the Committee herewith the report of the Kyrgyz Republic submitted pursuant to paragraph 4 of Security Council resolution 1540 (2004) (see annex).

(*Signed*) Nurbek **Jeenbaev**
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to the United Nations

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Annex to the letter dated 14 December 2004 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Chairman of the Committee

Report of the Kyrgyz Republic on the implementation of Security Council resolution 1540 (2004)

[Original: Russian]

Commitment to a policy of disarmament and prevention of the proliferation of weapons of mass destruction is one of the main principles underlying the foreign policy of the Kyrgyz Republic.

Strengthening the international regime for the non-proliferation of nuclear weapons on the basis of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) remains one of the fundamental ways of addressing those issues.

Kyrgyzstan has been a party to NPT since 5 July 1994 and was actively involved in the work of all three sessions (in 2002, 2003 and 2004) of the NPT Preparatory Committee. Kyrgyzstan supports the decision made at the 2000 NPT Review Conference. It hopes that the 2005 Review Conference in New York will be able to achieve significant progress towards overcoming existing disagreements with a view to the swift implementation and universalization of the Treaty.

Kyrgyzstan considers the Comprehensive Nuclear-Test-Ban Treaty (CTBT) to be one of the key instruments in the area of nuclear disarmament and non-proliferation and for ensuring strategic stability and security. On 8 October 1996, during the fifty-first session of the United Nations General Assembly, and in support of the efforts of the international community to achieve regional and international nuclear security, Kyrgyzstan signed the CTBT.

Kyrgyzstan worked hard to complete the ratification procedure for that important international document and its instrument of ratification of the CTBT was delivered during a meeting between the President of the Kyrgyz Republic and the Secretary-General of the United Nations, as the depositary of the Treaty, during the fifty-eighth session of the United Nations General Assembly in October 2003.

Kyrgyzstan considers that all countries that have not yet signed and ratified the CTBT should do so as soon as possible. That applies particularly to States whose ratification is necessary for the entry into force of the Treaty. It is also important that until the CTBT enters into force, the moratorium on nuclear-weapons tests and any other nuclear explosions should continue to be observed.

After signing NPT, Kyrgyzstan, in accordance with the provisions of the Treaty, was required to establish legal relations with the International Atomic Energy Agency (IAEA) (by putting its military and civilian nuclear facilities under the Agency's control either through accession or by some other mechanism). In that respect, Kyrgyzstan completed the procedure for accession to IAEA in 2003. On 16 September 2003, the IAEA General Conference adopted a resolution on admission of the Kyrgyz Republic as a member of the Agency. Kyrgyzstan thereby officially became the 137th member of IAEA.

Kyrgyzstan's next step towards preventing the spread of nuclear weapons and of material that could be used to make weapons of mass destruction and also towards ensuring the safe application and use of nuclear material was ratification of the Agreement with IAEA for the Application of Safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons.*

In addition, the Government of the Kyrgyz Republic is making active efforts to accede to the Additional Protocol with IAEA for the application of safeguards.

Kyrgyzstan considers the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction to be an effective instrument for strengthening international peace and security and advocates making it universal.

During the meeting between the President of the Kyrgyz Republic and the United Nations Secretary-General in October 2003 Kyrgyzstan's instruments of ratification to the Chemical Weapons Convention were delivered to the Secretary-General, the depositary of the Convention.

The accession by the Kyrgyz Republic to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction was another clear sign of Kyrgyzstan's commitment to a policy of non-proliferation of weapons of mass destruction.**

The Kyrgyz Republic considers that the Group of Eight Global Partnership against the Spread of Weapons and Materials of Mass Destruction initiative adopted in June 2002 at the G-8 summit meeting in Kananaskis, Canada, is an essential factor in the world for strengthening international security and is interested in developing cooperation within the framework of that initiative. In that respect, Kyrgyzstan welcomes the adoption at the G-8 summit meeting on Sea Island in June 2004 of an action plan on the non-proliferation of weapons of mass destruction.

Kyrgyzstan considers that the establishment of nuclear-weapon-free zones in various regions of the world is contributing significantly to nuclear disarmament and helping to strengthen regional and global peace and security. Recent events involving Iraq, the Islamic Republic of Iran, the Democratic People's Republic of Korea and, earlier, South Asia provided further confirmation of the importance of nuclear disarmament and the non-proliferation regime at a time when they are facing serious problems. Such events show the importance of regional approaches to disarmament and non-proliferation, which could strengthen the global non-proliferation regime.

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* Kyrgyzstan signed the Agreement with IAEA for the Application of Safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons on 18 March 1998. On 8 December 2003 the Legislative Assembly of the *Zhogorku Kenesh* adopted the Act on ratification of the Agreement between the Kyrgyz Republic and the International Atomic Energy Agency for the Application of Safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons, signed on 18 March 1998 at Vienna. On 30 December 2003 that Act was signed by the President of the Kyrgyz Republic, A. Akayev. The Agreement entered into force in February 2004.

** On 2 July 2003 the Legislative Assembly of the *Zhogorku Kenesh* adopted the Act on accession by the Kyrgyz Republic to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. The President of the Kyrgyz Republic, A. Akayev, signed the Act on 17 August 2004. On 12 October 2004 the Kyrgyz Minister for Foreign Affairs, A. Aitmatov, delivered Kyrgyzstan's instrument of accession to the Convention to the Minister for Foreign Affairs of the Russian Federation, S. Lavrov, in his capacity as depositary of the Convention.

The Kyrgyz Republic remains committed to the establishment of a nuclear-weapon-free zone in Central Asia and attaches particular significance to the unanimous adoption at the fifty-seventh and fifty-eighth sessions of the United Nations General Assembly of resolutions, calling on all States to support that initiative and help to establish such a zone.

While regretting the lack of progress at the Conference on Disarmament, Kyrgyzstan supports the development of multilateral dialogue on prohibiting the production of fissile material, preventing an arms race and achieving nuclear disarmament within the framework of that forum.

Kyrgyzstan views the International Code of Conduct against Ballistic Missile Proliferation as an important and meaningful way of controlling missile proliferation, which threatens international peace and security, and plans to accede to it in the very near future.

In accordance with the Constitution of the Kyrgyz Republic, international legal agreements and instruments to which Kyrgyzstan is a party are an integral part of national legislation. In that respect, Kyrgyzstan is currently working to establish national bodies for cooperation with IAEA and the Organization for the Prohibition of Chemical Weapons (OPCW). Until those bodies are established, the Ministry of Foreign Affairs will be responsible for developing cooperation with IAEA and OPCW.

The Kyrgyz Republic considers that all States must cooperate with export control regimes in order to prevent the proliferation of weapons of mass destruction and their means of delivery. States in possession of advanced technologies in the area of weapons of mass destruction have an obligation to prevent the proliferation of such technologies so that they cannot fall into the hands of other States or groups that are capable of threatening the world with the use of weapons of mass destruction. Kyrgyzstan is now at the stage of establishing a national export control system.

A legal basis is currently being developed for an export control system in the Kyrgyz Republic. In January 2003 President Askar Akayev signed an Act on export controls. That Act is based on the principles and rules of international law with respect to export controls.

The Act on export controls, signed on 23 January 2003 by the President of the Kyrgyz Republic, along with the existing Acts on licensing and on State regulation of foreign trade activities in the Kyrgyz Republic, are the principal regulatory and legal instruments in the Kyrgyz Republic on issues relating to State security and defence capacity and also on observance of international rules and guidelines on non-proliferation of weapons of mass destruction and their means of delivery.

The Act on export controls sets forth the underlying principles of State policy and the legal foundations for the activities of State administrative bodies and foreign trade actors in the area of export control and also specifies their rights, obligations and responsibilities in that area. Moreover, article 4 of that Act defines the fulfilment of the requirements of international agreements of the Kyrgyz Republic on non-proliferation of weapons of mass destruction and their means of delivery as one of the goals of export control.

Article 13 of the Act on export controls provides for enhancing international cooperation in the area of export control through concerted efforts and cooperation with foreign States to prevent the proliferation of weapons of mass destruction, and their means of delivery and also of technologies to produce them; and through participation in international export control regimes and international forums, as well as negotiations and consultations with foreign States, exchanges of information and the implementation of joint programmes and other bilateral and multilateral export control measures.

The adoption of the Act on export controls thus demonstrates Kyrgyzstan's commitment to the policy of non-proliferation of weapons of mass destruction and their means of delivery and its entry into the world export control system. The establishment of reliable export controls is all the more urgent in that Kyrgyzstan has a problem of uranium tailing dumps, which are not only a threat to the environment but could be a source of proliferation of feedstock for the production of nuclear material.

Kyrgyzstan now has the capacity to export uranium products and rare-earth metals and at the same time to import various kinds of biotechnological and dual-use items.

In international practice, military goods, including weapons, military equipment, firearms, ammunition and other military items, are subject to export control, along with raw materials, material, equipment, technologies and dual-use items that could be used to produce weapons of mass destruction.

In line with the requirements of the Act on export controls adopted in January 2003, the legislative basis has been established for an export control system with respect to raw materials, material, equipment, technologies and dual-use items that could be used to produce weapons of mass destruction and their means of delivery.

Decree No. 121-r of the Government of the Kyrgyz Republic, of 17 March 2003, established a standing interdepartmental working group of experts on export control, including specialists from the Ministry of Defence, the Ministry of Foreign Trade and Industry, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice, the National Security Service, the Border Service, the Customs Department of the Ministry of Finance and the National Academy of Sciences, in order to implement the Act on export controls, establish the necessary regulatory and legal basis for the introduction of an export control system for dual-use items, individual types of raw materials, material, equipment and technologies, scientific and technical information and services that may be used for the production of weapons of mass destruction, their means of delivery and other kinds of weapons and military equipment as well as draft proposals for the compilation of a national control on all kinds of controlled items. The working group is drafting proposals to establish and enhance the entire regulatory basis that is required in accordance with the Act adopted.

A draft decree of the President of the Kyrgyz Republic on measures for the further development of military and technical cooperation between the Kyrgyz Republic and foreign States and the introduction of a national export control system, which had been prepared by the working group, was signed by the Head of State in August 2003. The Decree established the Commission on military and technical cooperation and export control. The Commission's main responsibilities include

coordinating the work of State administrative bodies and foreign trade actors with respect to export control, ensuring implementation of State policy in that area, and monitoring compliance with international agreements and regulatory and legal instruments of the Kyrgyz Republic in the area of export control.

Furthermore, the following regulatory instruments were developed by the working group and approved by Government decision No. 330 of 4 May 2004:

- Regulation on the Commission on military and technical cooperation and export control (which provides for the establishment of a single coordinating body in the area of export control and military and technical cooperation);
- Regulation on the export control system in the Kyrgyz Republic with respect to controlled goods (which provides for a uniform export control system and a mechanism for its implementation, by various State bodies and services, and a procedure for reviewing and coordinating the decisions taken by them and verifying and monitoring the end use of controlled items);
- A procedure for issuing permits for the transit of goods subject to export control through the territory of the Kyrgyz Republic (which provides for a mechanism for cooperation among the control agencies and a procedure for organizing inspections of transit cargo and issuing transit permits).

It should be noted that in order to ensure the effective implementation of the Act on export controls, the *Zhogorku Kenesh* introduced a proposal (bill) on the establishment of criminal and administrative liability for violating the export control system, which is currently under consideration.

At the same time several other legislative acts (Acts on licensing and on State regulation of foreign trade activity) were brought in line with the Act on export controls.

Work is now being done to draft a national control list of controlled items.

It should be noted that the work on the preparation of the national control list is drawing on international experience. The working group has studied the experience and lists of such countries as the Russian Federation, Kazakhstan and Belarus, as well as the European Union model export control list and international export control regimes.

One of the most important factors for ensuring an effective export control system is the need to strengthen the physical protection of State borders. Border and customs service personnel are required to undergo regular training, and the posts are being modernized and now correspond to current realities.

In December 2003, by a Decree of the President of Kyrgyzstan, an independent Border Service of the Kyrgyz Republic was established, based on the Main Border Protection Administration which had formerly been part of the Ministry of Defence.

Despite its relatively "young" age, the Border Service has already proved its worth and has been actively involved in efforts to establish an effective export control system.

The Border Service is taking a number of measures to detect and suppress any illegal activity on the State borders of the Kyrgyz Republic. In particular, it is regularly conducting special border operations aimed at detecting and arresting

violators of the State border regime, persons affiliated with international terrorist organizations and also persons involved in smuggling weapons, drugs and other items and substances that are prohibited from being imported into or exported from the territory of the Kyrgyz Republic. The Border Service is taking steps to reconfigure existing border crossing points of the Kyrgyz Republic in accordance with international standards and supply them with modern equipment, and is also working to open new crossing points.

The Government of the United States of America has extended assistance to Kyrgyzstan, free of charge, within the framework of the Export Control and Related Border Security Assistance Program, to ensure border security and strengthen the relevant agencies of the Kyrgyz Republic through material and technical means (such as radio stations and devices for detecting border violations).

At the same time, the Kyrgyz Republic urgently requires the necessary technical resources and financial and methodological assistance to make its export control system fully functional.

The Kyrgyz Republic is fully prepared to engage in dialogue and cooperation in the area of non-proliferation of weapons of mass destruction and their means of delivery and to take joint measures to prevent illicit trafficking in them.

Kyrgyzstan will continue to work actively to implement the provisions of Security Council resolution 1540 (2004).